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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------|---------------------|------------------|
| 10/799,122      | 03/12/2004  | Dominick A. Candelore III | Candelore - 0401    | 7071             |

36787 7590 07/10/2006

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| EXAMINER |
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PHAM, TOAN NGOC

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2612

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/799,122 | <b>Applicant(s)</b><br>CANDELORE ET AL. |  |
|                              | <b>Examiner</b><br>Toan N. Pham      | <b>Art Unit</b><br>2612                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Heytow (US 4,012,690).

Regarding claim 1: Heytow discloses a substantially non-metallic housing that defines a hollow cavity and a human walking surface; and a metal scanner element positioned in the hollow cavity defined by the non-metallic housing, wherein the walking surface receives a covered human foot (col. 3, lines 46-67; Fig. 1).

Regarding claim 2: Heytow discloses the housing is constructed of plastic (col. 3, lines 25-35).

Regarding claim 7: Heytow discloses the device comprising an on/off switch (44), a battery (40) (col. 4, lines 21-30).

Regarding claim 8: Heytow discloses the first and second metal detectors and housing with the first and second human walking surfaces that received the covered human foot (Fig. 1).

Regarding claim 11: Heytow discloses a detector that detects the whole human body; including the shoes, when stepped onto the platform (12) (Fig. 1).

Regarding claim 12: Heytow discloses passing the human foot over the metal detector (Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heytow (US 4,012,690).

Regarding claim 3: Heytow discloses the housing is constructed of plastic (col. 3, lines 25-35). Heytow does not disclose the housing is partially translucent; however, it is merely a matter of design choice to disclose different non-metallic material of the housing for the purpose of preventing interference with the monitored signal.

Regarding claims 4, 9 and 10: Heytow does not disclose an inclined or angled housing; however, it is merely a matter of design choice to position a housing in a particular dimension for providing the claimed monitoring of the human shoes as disclosed by Heytow.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heytow (US 4,012,690) in view of Rodriguez (US 5,039,981).

Regarding claim 5: Heytow does not disclose the indicia. Rodriquez discloses an indicia (38, 40) positioned adjacent to the human walking surface of the substantially non-metallic housing (Fig. 2). At the time of the invention, it would have been obvious to one of ordinary skill in the art to utilize indicia as taught by Rodriquez in a system as disclosed by Heytow for providing and instructing the user to place the monitored item in an effective monitoring region.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heytow (US 4,012,690) in view of Burton (US 6,362,739).

Regarding claim 6: Hettow does not disclose a wand-type metal scanner. Burton discloses a metal detecting device includes the claimed wand hand scanner (100) (col. 5, lines 21-31; Fig. 7). At the time of the invention, it would have been obvious to one of ordinary skill in the art to utilize a wand-type metal scanner as taught by Burton in a system as disclosed by Heytow for providing addition flexible and portable metal detection.

### ***Conclusion***

\* The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of Schroeder (US 2004/0145488), Jeffers et al. (US 5,689,184), Caulfield et al. (US 6,870,791), and Rodriquez (US 5,039,981) are cited to show a variety of metal detecting systems.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N. Pham whose telephone number is (571) 272-2967. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 6, 2006

**TOAN N. PHAM**  
**PRIMARY EXAMINER**

